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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ANGEL VARGAS, FELIX BONILLA,
RYAN MCKENZIE, BERNARDO
RAMIREZ and SIMON NORALES

Plaintiff,

v.

MIDTOWN AIR CONDITION AND
VENTILATION, LTD.

Defendant.

Case No.: 1:07-cv-03343-RMB
Honorable Richard M. Berman, U.S.D.J.

Civil Action

**DEFENDANT'S NOTICE OF MOTION
FOR SUMMARY JUDGMENT**

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PLEASE TAKE NOTICE that at a date and time to be determined by this Court, Defendant Midtown Air Conditioning and Ventilation, LTD, ("Defendant") will and hereby does move for any entry of an order granting summary judgment against Plaintiffs Angel Vargas, Felix Bonilla, Ryan McKenzie, Bernardo Ramirez, and Simon Norales, pursuant to F.R.C.P. 56, before the Hon. Richard M. Berman of the United States District Court for the Southern District of New York, located at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, dismissing all claims brought by Plaintiff against Defendants.

This motion is based on the grounds that Plaintiffs claims for discrimination and retaliation under 42 U.S.C. § 1981, the New York State Human Rights Law, and the New York City Human Rights Law are barred, at least in part, by the statute of limitations, and further that Plaintiffs cannot satisfy their duty to state a *prima facie* case of discrimination or retaliation, nor can they rebut Defendant's legitimate, nondiscriminatory reasons for its actions. The motion is also based on the ground that Plaintiffs' claim for unpaid wages under Labor law Section 220(8) fails because the statute does not give rise to a private right of action, and in any event, Plaintiffs have no evidence to support this claim.

PLEASE TAKE FURTHER NOTICE that in support of its motion, Defendant shall rely upon the annexed Separate Statement of Undisputed Material Facts (attached as Exhibit A), Memorandum of Law, the Affidavits of Ilya Brodsky and Eric Stuart, and the attached exhibits, the accompanying Proposed Order, and all other pleadings and process currently on file with the Court relating to this action.

PLEASE TAKE FURTHER NOTICE that Defendant requests oral argument.

Respectfully submitted,

By: s/ Eric C. Stuart
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Dated: March 28, 2008